

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2007-1513-PST-E TCEQ ID: RN101674778 CASE NO.: 34581
 RESPONDENT NAME: BHAYANI INVESTMENT, INC. DBA MICKEY'S PIT STOP

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 18567 South Interstate 35, Bruceville, McLennan County</p> <p>TYPE OF OPERATION: convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired May 18, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Rebecca M. Combs, Litigation Division, MC 175, (512) 239-6939 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Wallace Myers, Waste Enforcement Section, MC 128, (512) 239-6580 TCEQ Regional Contact: Mr. Sam Barrett, DFW Regional Office, MC R-4, (817) 588-5903 Respondent: Mr. Noman Bhayani, President, Bhayani Investment, Inc., 311 S. Robinson Dr., Robinson, Texas 76706 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: July 23, 2007</p> <p>Date of NOE Relating to this Case: October 14, 2007</p> <p>Background Facts:</p> <p>The EDRP was filed February 29, 2008. An EDFARP was filed September 10, 2008. A signed Agreed Order with initial penalty payment was received March 17, 2009.</p> <p>Compliance Status:</p> <p>Violation nos. 2 and 3 have been corrected. The Respondent has not yet submitted documentation demonstrating compliance with violation nos. 1 and 4.</p> <p>PST:</p> <p>1. Failed to have required UST records maintained and readily accessible for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].</p> <p>2. Failed to provide an amended registration for any change or additional information regarding the USTs within 30 days from the date of the occurrence of the change or addition, and failed to renew a previously issued delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date [30 TEX. ADMIN. CODE §§ 334.7(d)(3) and 334.8(c)(5)(B)(ii)].</p> <p>3. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p> <p>4. Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a non-removable point in the immediate area of the fill tube according to the UST registration and self-certification form [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].</p>	<p>Total Assessed: \$3,500</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$510/\$2,990</p> <p>The Respondent paid \$510 of the administrative penalty. The remaining amount of \$2,990 of the administrative penalty shall be payable in 23 monthly payments of \$130 each.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:</p> <ol style="list-style-type: none"> 1. Updated the registration form to indicate the current owner/operator information and the current type of piping associated with the USTs. 2. Received a new delivery certificate which expires in April 2009. 3. Supplied the missing UST records (Certificate of Insurance and Tank Data information) to the Regional Office. <p>Technical Requirements:</p> <p>The Respondent shall undertake the following technical requirement:</p> <ol style="list-style-type: none"> 1. Immediately, ensure that a legible tag, label or marking with the tank number is permanently applied according to the UST registration and self-certification form. 2. Within 30 days, submit written certification to demonstrate compliance with Ordering Provision No. 1.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 25, 2007

TCEQ

DATES	Assigned	28-Aug-2007	
	PCW	27-Aug-2008	Screening 31-Aug-2007 EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	Bhayani Investment, Inc. dba Mickey's Pit Stop		
Reg. Ent. Ref. No.	RN101674778		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	34581	No. of Violations	4
Docket No.	2007-1513-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Wallace Myers
Multi-Media		EC's Team	EnforcementTeam 6
Admin. Penalty \$	Limit Minimum \$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes	No adjustment due to compliance history.
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Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes	The Respondent does not meet the good faith criteria.
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	0% Enhancement	Subtotal 6	\$0
Total EB Amounts	\$22	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$700		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes	
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Final Penalty Amount	\$3,500
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STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty	\$3,500
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DEFERRAL

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement
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Adjustment	\$0
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PAYABLE PENALTY

	\$3,500
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Screening Date 31-Aug-2007

Docket No. 2007-1513-PST-E

PCW

Respondent Bhayani Investment, Inc. dba Mickey's Pit Stop

Policy Revision 2 (September 2002)

Case ID No. 34581

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN101674778

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No adjustment due to compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 31-Aug-2007 Respondent Bhayani Investment, Inc. dba Mickey's Pit Stop Case ID No. 34581 Reg. Ent. Reference No. RN101674778 Media [Statute] Petroleum Storage Tank Enf. Coordinator Wallace Myers Violation Number <input type="text" value="1"/>	Docket No. 2007-1513-PST-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision May 25, 2007</i>																		
Rule Cite(s) <input style="width: 100%;" type="text" value="30 Tex. Admin. Code § 334.10(b)"/>																			
Violation Description <input style="width: 100%;" type="text" value="Failed to have the required UST records maintained, readily accessible, and make them available for the inspection upon request by agency personnel."/>																			
Base Penalty <input style="width: 100%;" type="text" value="\$10,000"/>																			
>> Environmental, Property and Human Health Matrix																			
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;"></td> <td style="width: 10%; text-align: center;">Release</td> <td style="width: 10%; text-align: center;">Major</td> <td style="width: 10%; text-align: center;">Harm Moderate</td> <td style="width: 10%; text-align: center;">Minor</td> <td style="width: 10%;"></td> </tr> <tr> <td></td> <td>Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td></td> </tr> <tr> <td></td> <td>Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td></td> </tr> </table> <div style="display: flex; justify-content: flex-end; align-items: center; margin-top: 5px;"> Percent <input style="width: 50px;" type="text" value="0%"/> </div>		Release	Major	Harm Moderate	Minor			Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>			Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Release	Major	Harm Moderate	Minor															
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>															
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>															
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	<input type="text"/>	x	<input type="text"/>	<input type="text"/>															
Matrix Notes	<input style="width: 100%;" type="text" value="100% of the rule requirement was not met."/>																		
Adjustment <input style="width: 100%;" type="text" value="\$9,000"/>																			
<input style="width: 100%;" type="text" value="\$1,000"/>																			
Violation Events																			
<div style="display: flex; justify-content: space-between;"> <div> Number of Violation Events <input style="width: 50px;" type="text" value="1"/> </div> <div> <input style="width: 50px;" type="text" value="39"/> Number of violation days </div> </div> <div style="margin-top: 10px;"> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;"></td> <td style="width: 10%; text-align: center;">daily</td> <td style="width: 10%;"></td> </tr> <tr> <td></td> <td>monthly</td> <td><input type="text"/></td> </tr> <tr> <td></td> <td>quarterly</td> <td><input type="text"/></td> </tr> <tr> <td></td> <td>semiannual</td> <td><input type="text"/></td> </tr> <tr> <td></td> <td>annual</td> <td><input type="text"/></td> </tr> <tr> <td></td> <td>single event</td> <td style="text-align: center;">x</td> </tr> </table> <div style="display: flex; justify-content: flex-end; align-items: center; margin-top: 10px;"> Violation Base Penalty <input style="width: 100px;" type="text" value="\$1,000"/> </div> </div>			daily			monthly	<input type="text"/>		quarterly	<input type="text"/>		semiannual	<input type="text"/>		annual	<input type="text"/>		single event	x
	daily																		
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	annual	<input type="text"/>																	
	single event	x																	
<input style="width: 100%;" type="text" value="One single event is recommended based on documentation of the violation during the July 23, 2007 investigation."/>																			
Economic Benefit (EB) for this violation																			
Estimated EB Amount <input style="width: 100px;" type="text" value="\$4"/>																			
Statutory Limit Test																			
Violation Final Penalty Total <input style="width: 100px;" type="text" value="\$1,000"/>																			
This violation Final Assessed Penalty (adjusted for limits) <input style="width: 100px;" type="text" value="\$1,000"/>																			

Economic Benefit Worksheet

Respondent Bhayani Investment, Inc. dba Mickey's Pit Stop

Case ID No. 34581

Reg. Ent. Reference No. RN101674778

Media Petroleum Storage Tank

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$500	23-Jul-2007	19-Sep-2007	0.2	\$4	n/a	\$4
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain UST records. The date required is the investigation date and the final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$4

Screening Date 31-Aug-2007

Docket No. 2007-1513-PST-E

PCW

Respondent Bhayani Investment, Inc. dba Mickey's Pit Stop

Policy Revision 2 (September 2002)

Case ID No. 34581

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN101674778

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 334.7(d)(3) and 334.8(c)(5)(B)(ii)

Violation Description

Failed to provide an amended registration for any change or additional information regarding the USTs within 30 days from the date of the occurrence of the change or addition. Specifically, the registration information had not been updated to indicate the current operator information and the current type of piping associated with the USTs. Also, failed to renew a previously issued delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on August 31, 2005.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

39 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the July 23, 2007 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent Bhayani Investment, Inc. dba Mickey's Pit Stop

Case ID No. 34581

Reg. Ent. Reference No. RN101674778

Media Petroleum Storage Tank

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount

Item Description No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	1-Aug-2005	19-Sep-2007	2.1	\$11	n/a	\$11

Notes for DELAYED costs

Estimated cost to submit an amended UST registration form to the TCEQ. The date required is 30 days prior to the expiration date of the delivery certificate and the final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$11

Screening Date 31-Aug-2007

Docket No. 2007-1513-PST-E

PCW

Respondent Bhayani Investment, Inc. dba Mickey's Pit Stop

Policy Revision 2 (September 2002)

Case ID No. 34581

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN101674778

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code 26.3467(a)

Violation Description

Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, one fuel delivery was accepted without a delivery certificate.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 5%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$500

This violation Final Assessed Penalty (adjusted for limits) \$500

Economic Benefit Worksheet

Respondent Bhayani Investment, Inc. dba Mickey's Pit Stop

Case ID No. 34581

Reg. Ent. Reference No. RN101674778

Media Petroleum Storage Tank

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	\$0	\$0
Record Keeping System				0.0	\$0	\$0	\$0
Training/Sampling				0.0	\$0	\$0	\$0
Remediation/Disposal				0.0	\$0	\$0	\$0
Permit Costs				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for DELAYED costs

Economic benefits included in Violation No. 2.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 31-Aug-2007

Docket No. 2007-1513-PST-E

PCW

Respondent Bhayani Investment, Inc. dba Mickey's Pit Stop

Policy Revision 2 (September 2002)

Case ID No. 34581

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN101674778

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 334.8(c)(5)(C)

Violation Description

Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill-tube according to the UST registration and self-certification form.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

39 Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the July 23, 2007 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent Bhayani Investment, Inc. dba Mickey's Pit Stop

Case ID No. 34581

Reg. Ent. Reference No. RN101674778

Media Petroleum Storage Tank

Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	23-Jul-2007	31-Jan-2009	1.5	\$8	n/a	\$8

Notes for DELAYED costs

Estimated cost to label the UST fill ports. The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$8

Compliance History

Customer/Respondent/Owner-Operator:	CN603243942	BHAYANI INVESTMENT, INC.	Classification: Average By Default	Rating: 3.01
Regulated Entity:	RN101674778	MICKEY'S PIT STOP	Classification: Average By Default	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		REGISTRATION	29638
Location:	18567 S INTERSTATE 35, BRUCEVILLE, TX, 76630		Rating Date: September 01 07 Repeat Violator: NO	
TCEQ Region:	REGION 09 - WACO			
Date Compliance History Prepared:	September 18, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 18, 2007 to September 18, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Philip DeFrancesco		Phone:	(817) 588-5933

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Bhayani Investment, Inc.
4. If Yes, who was/were the prior owner(s)? Brenda Swinney
5. When did the change(s) in ownership occur? 05/11/2005

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BHAYANI INVESTMENT, INC.
DBA MICKEY'S PIT STOP;
RN101674778

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-1513-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Bhayani Investment, Inc. dba Mickey's Pit Stop ("Bhayani") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Bhayani appear before the Commission and together stipulate that:

1. Bhayani owns and operates a convenience store with retail sales of gasoline located at 18567 South Interstate 35 in Bruceville, McLennan County, Texas (the "Facility"). Bhayani's six underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Bhayani's USTs contain a regulated petroleum substance as defined in the rules of the Commission.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the TCEQ rules.
3. The Commission and Bhayani agree that the Commission has jurisdiction to enter this Agreed Order, and that Bhayani is subject to the Commission's jurisdiction.
4. Bhayani received notice of the violations alleged in Section II ("Allegations") on or about October 19, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Bhayani of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of three thousand five hundred dollars (\$3,500.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Bhayani has paid five hundred ten dollars (\$510.00) of the administrative penalty. The remaining amount of two thousand nine hundred ninety dollars (\$2,990.00) of the administrative penalty shall be payable in twenty-three monthly payments of one hundred thirty dollars (\$130.00) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Bhayani fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Bhayani to meet the payment schedule of this Agreed Order constitutes the failure by Bhayani to timely and satisfactorily comply with all of the terms of this Agreed Order.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Bhayani have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Bhayani has implemented the following corrective measures at the Facility in response to this enforcement action:
 - a. updated the registration form to indicate the current owner/operator information and the current type of piping associated with the USTs on September 19, 2007;
 - b. received a new delivery certification which expires in April 2009; and
 - c. supplied Certificate of Insurance and Tank Data information to the Regional Office on August 6, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Bhayani has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

1. During an investigation conducted on July 23, 2007, a TCEQ Waco Regional Office investigator documented that Bhayani violated:
 - a. 30 TEX. ADMIN. CODE § 334.10(b) by failing to have the required UST records maintained and readily accessible for inspection upon request by agency personnel.
 - b. 30 TEX. ADMIN. CODE §§ 334.7(d)(3) and 334.8(c)(5)(B)(ii) by failing to provide an amended registration for any change or additional information regarding the USTs within 30 days from the date of the occurrence of the change or addition. Specifically, the registration information had not been updated to indicate the current operator information and the current type of piping associated with the USTs. Also, failed to renew a previously issued delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certification expired on August 31, 2005.
 - c. 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a) by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, one fuel delivery was accepted without a delivery certificate.
 - d. 30 TEX. ADMIN. CODE § 334.8(c)(5)(C) by failing to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a non-removable point in the immediate area of the fill tube according to the UST registration and self-certification form.

III. DENIALS

Bhayani generally denies each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Bhayani pay an administrative penalty as set forth in Section I, Paragraph Six above. The payment of this administrative penalty and Bhayani's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Bhayani Investment, Inc. dba Mickey's Pit Stop; Docket No. 2007-1513-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Bhayani shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Bhayani shall ensure that a legible tag, label, or marking with the tank number is permanently applied according to the UST registration and self-certification form.
 - b. Within 30 days after the effective date of this Agreed Order, Bhayani shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Bhayani shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision No. 2.a. to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and

Sam Barrett, Waste Section Manager
Texas Commission on Environmental Quality
Waco Regional Office
6801 Sanger Ave., Ste. 2500
Waco, Texas 76710

3. The provisions of this Agreed Order shall apply to and be binding upon Bhayani. Bhayani is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Bhayani fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Bhayani's failure to comply is not a violation of this Agreed Order. Bhayani shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Bhayani shall notify the Executive Director within seven days after Bhayani becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Bhayani shall be made in writing to the Executive Director. Extensions are not effective until Bhayani receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Bhayani in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be

transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

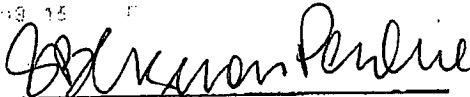
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Bhayani, or three days after the date on which the Commission mails notice of the Order to Bhayani, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Bhayani Investment, Inc. dba Mickey's Pit Stop
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Mar 17 09 For the Commission
03/17/2009 15


For the Executive Director

4/14/2009
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on the entity's compliance history;
- Greater scrutiny of any permit applications submitted by the entity;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against the entity;
- Automatic referral to the Attorney General's Office of any future enforcement actions against the entity; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

03/17/09
Date

NORMAN BHAYANI

PRESIDENT

Name (Printed or typed)

Title

Authorized representative of
Bhayani Investment, Inc. dba Mickey's Pit Stop